

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CALEB GRANT,

Plaintiff,

v.

Case No. 23C0551

DANIEL KROLIKOWSKI ET AL.,

Defendants.

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**DISTRICT ATTORNEYS' MOTION TO STAY DISCOVERY PENDING  
DECISION ON MOTION TO DISMISS**

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Now come the Defendants DA Albrecht and ADA Arevalo (hereinafter the “DA Defendants”) and move this Court for an order staying discovery pending the Court’s decision on the DA Defendants’ Motion to Dismiss. The grounds for this motion are as follows:

1. On October 13, 2023, the DA Defendants filed a Motion to Dismiss. on the basis of Eleventh Amendment immunity, prosecutorial immunity, and qualified immunity. (Dkts. 16-17.)
2. On November 3, 2023, Plaintiff filed a Response. (Dkt. 32.)
3. On November 13, 2023, the DA Defendants filed a reply. (Dkt. 34.)
4. The Court held a scheduling conference on November 21, 2023 which allows discovery to commence thereafter.

5. Immunity is a defense to suit rather than just liability and should be addressed as early as possible. *Jacobs v. City of Chicago*, 215 F.3d 758, 765, n. 3 (7th Cir. 2000).

6. Courts should resolve immunity issues at the earliest possible time, preferably before allowing discovery. *Buckley v. Fitzsimmons*, 20 F.3d 789, 793 (7th Cir. 1994) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982); *Elliott v. Thomas*, 937 F.2d 338, 344–45 (7th Cir.1991)).

7. Because the DA Defendants’ Motion to Dismiss is fully briefed, that “time is now.” *See Buckley* at 20 F.3d at 793.

8. The DA Defendants should not be required to engage in time consuming, costly, and protracted discovery before the Court decides whether the DA Defendants are entitled to immunity.

## CONCLUSION

WHEREFORE, the DA Defendants respectfully request the Court grant their Motion to Stay and enter an order staying discovery directed to the DA Defendants until the Court rules on the pending Motion to Dismiss.

Dated November 28, 2023

Respectfully submitted,

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